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APPENDIX A

The opinion of the court was delivered by

Kaul, J.: This is an appeal from a summary judgment of the district court entered in favor of defendants-appellees, The Haskell County Planning Board and the Members thereof, in a declaratory judgment action. Plaintiffs-appellants also appeal from an order of the district court dismissing the action as to the defendant, appellee, Adel Throckmorton, State Superintendent of Public Instruction.

The action arises out of the same controversy involved in a companion case entitled: *Board of Satanta* v. *Grant County Planning Board*, 195 Kan. 640, 408 P.2d 655, decided by this court on December 11, 1965.

The facts in the instant case are similar to those involved in the companion case. The issues of law appear to be identical in the two actions and on oral argument, before this court, appellants' counsel conceded such to be the case.

The same basic question was presented in both cases: Is the State Superintendent authorized to conclusively determine whether "gray-area" shall be transferred from one planning unit to another? The question was resolved in the affirmative in *Board of Satanta* v. *Grant County Planning Board*, supra, and that opinion is adopted and incorporated herein as controlling and determinative of the issues raised in this appeal.

It would serve no useful purpose to restate the reasons for our previous decision.

The judgment is affirmed.

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APPENDIX B

Kansas Statutes Annotated

Article 67.—UNITIFED SCHOOL DISTRICTS ACT OF 1961

72-6734. Legislative declaration, liberal construction. The legislature hereby declares that this act is passed for the general improvement of the public schools in the state of Kansas; the equalization of the benefits and burdens of education throughout the various communities in the state; to expedite the organization of public school districts of the state so as to establish a thorough and uniform system of free public schools throughout the state whereby all areas of the state are included in school districts which maintain grades one (1) through twelve (12), and kindergarten where desired; and to have a wiser use of public funds expended for the support of the public school system of the state. To these ends this act shall be liberally construed. [L. 1963, ch. 393, § 1; May 15.]

72-6735. Definitions. As used in this act, unless the context otherwise requires:

(1) The term "state superintendent" means the state superintendent of public instruction.

(2) The term "county superintendent" means county superintendent of public instruction.

(3) The term "planning unit" means one of the primary units of organization that the territory of the state is divided into by this act for the purpose and function of planning the territorial extent and boundaries of proposed unified districts of the state, with every planning unit being under the general supervision of the state superintendent, and the functions of each planning unit being

independently administered locally under authority conferred by this act upon one individual planning board for each planning unit.

(4) The term "home county" means: (*a*) as applied to a planning unit or planning board, the particular county with which a particular planning unit, or planning board, is principally associated and mainly related in territory and residents, such that more than one-half of the area of such particular county is included in such particular planning unit; and (*b*) as applied to unified districts, the county designated by the state superintendent in his organization order as the home county of the unified district; and (*c*) as applied to a proposed unified district, the county so designated in recommendations unconditionally approved by the state superintendent.

(5) The term "planning board" means one of the six member administrative bodies provided to be established by this act, upon which this act imposes certain planning duties and functions and confers authority to carry out such planning.

(6) The word "board" means one of the unified school district boards of education provided for by this act and such board being the governing body of a unified district.

(7) The term "unified district" means a school district organized under the authority of this act.

(8) The term "city district" means the school district of a board of education of a city of the first or second class.

(9) The term "boards of city districts" means boards of education of cities of the first and second class.

(10) The term "board of the city district" means the board of education of a city of the first or second class.

(11) The term "selection committee" means one of the organizational bodies provided to be established by this act, and the sole function of each such body being the selection of all or part of the members of the planning board for the planning unit of such selection committee.

(12) The term "disorganized district" means any school district of any type disorganized pursuant to this act. [L. 1963, ch. 393, § 2; May 15.]

72-6736. Planning units; territorial extent; board; Shawnee Mission declared urban area. (a) All of the territory of the state is hereby divided into one hundred and six (106) planning units such that there is one planning unit for each county in the state except Johnson which shall have two (2) planning units, one (1) of which shall be comprised of the territory of rural high-school district No. 6 (Shawnee Mission) and the other of which shall be the territory which, under the provisions of this act, comprises the planning unit of Johnson county except for said rural high-school district No. 6. Each planning unit shall consist of the following: (1) All of the territory within every common-school district, the main school building of which is located in the home county of such planning unit unless such common-school district has more than one main school building, in which case the provisions next following shall apply, and (2) all of the territory within every common-school district which has more than one main school building and the greater part of the territory of which is in the home county of such planning unit, and (3) all of the territory within every city district of such home county, and (4) all of the territory in such home county that is not in any common-school district.

An individual planning board shall be selected for each planning unit. Each planning board shall have authority over and responsibility for the planning unit of residence of the members of such planning board, and such authority and responsibility shall be for the purposes, functions, duties and period specified in this act. The members of each planning board shall be selected and each planning board shall be constituted as provided in this act.

(b) The territory comprising (Shawnee Mission) rural high-school district No. 6 of Johnson county, Kansas, is hereby designated and declared to be an urban area for the purposes of this act. [L. 1963, ch. 393, § 3; May 15.]

72-6737. Selection committee of planning unit; membership; certification; duties of county superintendent; first meeting; chairman and secretary; certification of selection of members of planning board. On or before June 1, 1963, the boards of school districts of every type, all or the greatest part of the territory of which is located within each individual planning unit, except board of city districts shall each select one of its members to serve as a member of the selection committee of the planning unit. The clerk of each such board shall certify the name and mailing address of the members so selected to the county superintendent of the home county of the planning unit. On or before June 4, 1963, each such county superintendent shall compile a list of names of members so certified, and the persons named on such list shall comprise the selection committee for such planning unit.

Each selection committee shall meet on or before June 15, 1963, to make the selections herein provided. Each county superintendent shall call the first meeting of his selection committee, stating the time and place of such meeting in a written notice thereof, which he shall mail

to each member on such list at least two (2) days prior to such meeting.

The county superintendent of the home county of the selection committee shall be an ex officio member of the selection committee, without vote, and shall serve as secretary of the selection committee. Each selection committee shall elect one of its members chairman. Such chairman shall serve until the duties of the selection committee are completed. After the selection committee has made its selections, the names of the members of the planning board selected by such selection committee shall be certified by the county superintendent to the state superintendent no later than two (2) days after the date of the selection committee meeting. Boards of city districts shall certify the names of the planning board members selected by them to the state superintendent within two (2) days after such selections are made. [L. 1963, ch. 393, § 4; May 15.]

72-6738. Planning boards; composition; selection; qualifications. (*a*) Where there is no city district in a planning unit, the selection committee of such planning unit shall select six (6) persons who are resident electors of the planning unit to be members of the planning board of such planning unit as provided in subsection (*e*) of this section.

(*b*) If there is one and only one city district in a planning unit, the planning board of such planning unit shall have six (6) members selected as follows: The selection committee shall choose three (3) persons who are resident electors of the planning unit but who reside outside of such city district, and the board of such city district shall choose three (3) members, who are resident electors of the planning unit and who reside inside of such city district.

(c) If there are two (2) or more city districts in a planning unit, the planning board of such planning unit shall have six (6) members selected as follows: The county superintendent shall call a meeting of the boards of city districts in the planning unit. Such boards shall jointly select three (3) members who are resident electors of such city districts, and the selection committee shall select three (3) members, who are resident electors of the planning unit but who reside outside of such city districts.

(d) Selections to be made by boards of city districts shall be made on or before June 15, 1963.

(e) If there is no city district in the planning unit, the selection committee shall choose (1) three persons each of whom resides and owns real property within a third class city or a second class city not having a board of education, and (2) three members who reside outside of such cities.

(f) In any planning unit over half of the territory of which is comprised of school districts organized pursuant to section 72-6608 of the General Statutes Supplement of 1961 *et seq.*, the members of the planning board from city districts shall be chosen as above provided, and the three members not from city districts shall be selected as follows: Each board of education of a district organized pursuant to said section 72-6608 shall appoint one member to the planning board.

(g) No planning board member shall be an employee of any school board and none shall be an elective official of any city, county or the state. [L. 1963, ch. 393, § 5; May 15.]

72-6739. Filling vacancies on planning board. In the event of resignation, death or other disqualification of a planning board member, who was selected by a selection committee, the chairman of the selection committee shall

recall the selection committee and select a properly qualified member to fill such vacancy. In the event of resignation, death or other disqualification of a planning board member who was selected by one or more boards of city districts, then, the board or boards who selected such member shall select a properly qualified member to fill such vacancy. [L. 1963, ch. 393, § 6; May 15.]

72-6740. Failure to select planning board members; duty of state superintendent. In the event that a duly constituted planning board has not been selected in any planning unit by July 1, 1963, the state superintendent shall select and appoint members of the planning board as follows: (1) If neither the selection committee nor the city boards of a planning unit have duly selected members of the planning board, then, the state superintendent shall select and appoint any six (6) persons who qualify as provided in section 5 [72-6738] of this act to be members of such planning board or, (2) if the selection committee has duly selected members for the planning board but the city board or boards in such planning unit have failed to make their selections, or if the city board or boards have duly selected members for the planning board but the selection committee has failed to make its selections, then in either event the state superintendent shall appoint persons who qualify as provided in section 5 [72-6738] of this act to be members of such planning board in lieu of the members who should have been selected but were not. [L. 1963, ch. 393, § 7; May 15.]

72-6741. Organization of planning board; meetings; funds; increase in compensation of county superintendent, when; state participation. Each planning board shall hold its first meeting on or before July 3, 1963. The planning board shall elect one of its members to be chairman and

another member to be vice-chairman. Place and time of later meetings and other business of such board shall be determined and conducted as such board deems proper, so long as the board actions do not conflict with this act and so long as the board performs the duties directed by this act.

The county superintendent of the home county of the planning board shall serve as its secretary and shall perform such duties as it directs. The board of county commissioners of the home county of the planning board shall provide funds for the planning board in accordance with the reasonable requests of the planning board. Such funds shall be used for attorney fees, office expense, clerk and secretarial hire, travel and subsistence expense, and for postage and miscellaneous expenses of the planning board, within the financial limits provided by the board of county commissioners of the home county. Commencing on July 1, 1963, the salary of each county superintendent shall be increased in the amount of twenty dollars ($20) per month for a period to end when the reorganization needs are substantially ended as hereinafter provided, but such period shall not exceed two (2) years. Such expenditures of the planning board and election expenses paid by the county as provided for in this act shall be paid from the general fund of the home county and shall be vouchered and paid as other county expenses, except that the provisions of the budget law of the state shall not apply to such expenditures made in the year 1963. Fifty percent (50%) of the total amount so paid each month from the county general fund shall be reimbursed out of funds appropriated therefor in the state treasury. The state controller is hereby authorized to draw his warrants therefor on the state treasurer payable to the county treasurers of the proper counties for such reimbursements upon the

presentation of duly itemized and verified vouchers of the various boards of county commissioners. Upon receipt thereof the county treasurers shall credit the same to the county general fund.

The state superintendent shall keep himself informed of the reorganization financial needs of each of the county superintendents' offices of the state. When such needs, including disorganization needs, are substantially ended the state superintendent shall so advise the board of county commissioners, and no expenditures made after such date shall qualify for state financial participation under this section. [L. 1963, ch. 393, § 8; May 15.]

72-6742. Planning board recommendations; listing and summary; hearing requirements; duties of state superintendent. Each planning board, in formulating its recommendation to the state superintendent for territorial extent and boundaries of unified districts as herein provided, shall complete a study which shall consist of the following: Such board shall make a listing of the types of school districts in its planning unit which listing shall show for each, the school enrollments, enrollment trends, educational program offerings at kindergarten, elementary and secondary grade levels including special services in areas of health, physical education, music, art, special education programs, vocational and trade courses, and counseling and guidance services. Such board shall prepare a summary explaining the most important facts concerning utilization of school facilities, financial data relating to assessed valuation, assessment ratios, mill levies for school purposes, bonded indebtedness, capital investment; school transportation including bus routes, roads, number of students transported, and terrain and topography of the planning unit, as such matters exist in the planning unit. The list and summary

to be made pursuant to this section shall constitute a public document and shall be made available to residents of the planning unit on or before January 1, 1964.

The hearings required by section 11 [72-6744] of this act are expected to be informative to the members of the planning board, and should be conducted in an orderly and studious manner. Each planning board is directed to give careful attention to social and economic characteristics and needs of areas and groups of people along the boundaries of the planning unit. Each planning board should conduct hearings in such a way that there is ample opportunity for the planning board members to become advised of such characteristics and needs. The list and summary provided for in this section should reflect the information so derived. Such list and summary shall accompany the recommendations of the planning board when submitted to the state superintendent.

The state superintendent and his staff shall aid, advise and assist each planning board in the performance of its study duties by furnishing literature suggesting procedures, methods, forms, diagrams or maps and any other necessary or suitable materials for such study; and by providing consultation services to the extent practicable, within appropriations made therefor by the legislature. [L. 1963, ch. 393, § 9; May 15.]

72-6743. Gray-area territory; transfers; elections; approval by planning board or boards and by state superintendent; order by state superintendent. As used in this section, the term "gray-area" means any part of a joint rural high-school district which is not (under the provisions of section 3 [72-6736] of this act) located in the same planning unit as the main school building of such joint rural high-school is located.

On or before October 1, 1963, there shall be held a meeting of the electors residing in each gray-area in the state. At least ten (10) days prior to any such meeting the county superintendent of the county in which such a main school building is located shall post notices in three conspicuous places in each gray-area, notifying the resident electors of such gray-area of the time and place of such meeting. The purpose of each such meeting shall be to determine whether it is the desire of such electors that such gray-area be transferred from the planning unit in which such gray-area is located to the planning unit in which the main school building of such rural high-school district is located. Such county superintendent shall attend each such meeting and serve as chairman thereof. He shall explain to the persons present the purposes of the meeting and permit discussion by interested persons. After such explanation and discussion, the county superintendent shall distribute one (1) ballot to each such elector residing in such gray-area who is in attendance at such meeting. Such ballots shall be prepared so that such elector may vote in favor of transfer of such territory or against transfer of such territory. Each ballot shall then be returned to the county superintendent, and he shall count and tabulate the same and thereafter file such ballots in the public records of his office. If a majority of such ballots in any particular gray-area are in favor of the transfer of such territory, the county superintendent shall so declare and certify such fact to the chairman of the planning units involved.

Upon receipt of a certification that a majority of the electors residing in a particular gray-area are in favor of the transfer of such gray-area to the planning unit where the rural high-school building is located, the two planning boards involved shall consider the advisability of such

transfer. If either one or both of such planning boards are in favor of such transfer, the same shall be transferred, subject only to the approval thereof by the state superintendent as hereinafter provided. The chairman of each of such planning boards shall promptly, and prior to October 5, 1963, report to the state superintendent the result of the vote taken in each gray-area and the desire of his planning board with respect to such transfer. Upon the receipt of any such report the state superintendent shall determine whether such gray-area shall be transferred from one planning unit to the other, and shall promptly issue an order transferring the same or refusing to transfer the same. Such determination by the state superintendent shall be conclusive, and upon issuance of his order for any transfer under the provisions of this section, such gray-area shall be included in and be a part of the planning unit to which it is transferred by such order. [L. 1963, ch. 393, § 10; May 15.]

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